

Title 8. Environmental Protection

Chapter 10. Animal Control and Protection Act

Section 1 – Declaration of Policy

The Tolowa Dee-ni' Nation finds that there is a lack of control over and management of the animal populations within the Tolowa Dee-ni' Nation Reservation, which directly affects the Tolowa Dee-ni' Nation's authority and responsibility to protect and provide for the health and welfare of persons and property within the Tolowa Dee-ni' Nation Reservation. Residents, employees and guests within the Tolowa Dee-ni' Nation Reservation should be free from attack, harassment, or disease from dogs and other animals. In addition, such animals should be free from abuse, neglect, and exploitation.

The Tolowa Dee-ni' Nation's Animal Control and Protection Act is necessary to establish and implement a program for the legal protection of resident animal populations and the health, safety, welfare, and property rights of animal owners and non-owners within the exterior boundaries of the Tolowa Dee-ni' Nation Reservation. This Chapter is intended to hold animal owners and custodians accountable for violations.

Section 2 – Short Title

This Chapter shall be known and cited as the Tolowa Dee-ni' Nation Animal Control and Protection Act.

Section 3 – Authority

This Act is established by the Tolowa Dee-ni' Nation Tribal Council pursuant to the authority delegated to it by Article IV, Sections 1 & 2 of the Tribal Constitution of the Howonquet Indian Council of the Tolowa Dee-ni' Nation.

Section 4 – Jurisdiction

The jurisdiction of the Tolowa Dee-ni' Nation to apply and enforce provisions of this Act within the Tolowa Dee-ni' Nation Reservation shall extend as follows:

- A. To all Tribal Members.
- B. To all non-member Indians who are enrolled in a federally-recognized Indian tribe or a state-recognized Indian tribe.
- C. To all persons whose conduct or activities with regard to animals and livestock within the Tolowa Dee-ni' Nation Reservation occur on trust land of the Tolowa Dee-ni' Nation or who pose a demonstrably serious threat to the Tribe or directly imperil the political integrity, economic security, health or welfare of the Tribe, as expressly determined by the Tribal Council in written findings issued pursuant to this section.

Section 5 – Definition of Terms

As used in this Act, the following definitions should apply:

- A. “Animal” means any nonhuman vertebrate species kept by the owner for pleasure and companionship, which include but are not limited to dogs, cats, rabbits, and birds.
- B. “At large” means an animal or livestock that is not under constant control or supervision of its owner or is allowed to roam freely about the Reservation and is not under restraint.
- C. "Impound" means taking into custody an animal and placing it in a tribal or other public animal impound or shelter facility or animal control department or with a provider of animal control services.
- D. "Livestock" means any animal kept by the owner for profit or personal use, which includes but are not limited to cows, horses, chickens, sheep, goats, and pigs.
- E. “Owner” means any person, firm, corporation, organization, or department who owns, harbors, or keeps, or knowingly permits an animal to be harbored or kept or has an animal in his or her care, or who knowingly permits an animal to remain on or about his or her premises.
- F. "Stray animal" means any animal within the exterior boundaries of the Tolowa Dee-ni’ Nation Reservation, not wearing a current identification tag or running at large in public or on the premises or properties of another person, without the consent of the property owner.
- G. “Tribe” or “Tribal” means the Tolowa Dee-ni’ Nation.
- H. “Tribal Council” means the governing body of the Tolowa Dee-ni’ Nation as established under Article III of the Tribal Constitution of the Howonquet Indian Council of the Tolowa Dee-ni’ Nation.
- I. “Vicious Animal” means an animal that bites or attacks, or threatens to bite or attack, a person or other animal.
- J. “Wild Animal” means any animal, whether bred or reared in the wild or captivity, which is now or historically been found in the wild. Generally, an animal that, as a matter of common knowledge, is naturally untamable, unpredictable, and or dangerous, which includes but is not limited to bears, coyotes, deer, elk, fox, opossums, raccoons, skunks, squirrels, and wild birds.

Section 6 – Vaccination Required

- 6.1 All dogs over the age of four (4) months are required to be vaccinated against rabies at the dog owner's expense.
- 6.2 The required vaccination shall be performed by any licensed veterinarian or any clinic that is operated under the supervision of a licensed veterinarian.
- 6.3 Written certification of anti-rabies vaccination shall be obtained by the owner at the time the vaccination is performed
- 6.4 All dogs shall be re-vaccinated at such intervals as prescribed by the State Department of Health.

Section 7 – General Prohibitions

- 7.1 Dogs running at large. No owner shall permit his or her dog to run at large on the Tolowa Dee-ni' Nation Reservation. All dogs shall be physically restrained by a means of a leash when not on the premises of the owner. A dog may be unleashed on the owner's premises if the property is enclosed by a secure fence of sufficient strength and dimension to prevent the animal's escape or supervised by a person of suitable age and reasonable ability to control the animal.
- 7.2 Registration. No dog or cat shall be maintained by an owner without being registered either by the Del Norte County or the Tribe, and such animals shall at all times wear a licensed identification tag with owner contact information.
- 7.2 Noise. No owner shall permit his or her animal or livestock to habitually make loud noises, such as barking, howling, crying or make other sounds which unreasonably annoy, disturb, or endanger the health, welfare, or peace and comfort of any neighbor.
- 7.3 Harassment. No owner shall permit or allow his or her animal to chase, run after or jump at or upon vehicles, bicycles lawfully using public streets or places, or persons lawfully upon public sidewalks or places within the Reservation.
- 7.4 Trespass. No owner shall permit his or her animal or livestock, except a domestic cat, to trespass on any property of the Tolowa Dee-ni' Nation Reservation, without the consent of the owner of the property.
- 7.5 Killing or Injuring Animals or Livestock. No owner shall permit or allow his or her animal to kill or injure any other animal, wild animal, or livestock.
- 7.6 Directing Animals or Livestock. No owner shall direct, cause, encourage, allow, or otherwise aid or assist any animal or livestock to threaten, charge at, intimidate, bite, harass or attack any person, animal, or livestock within the Reservation.
- 7.7 Vicious Animals. No person shall keep, harbor, or maintain an animal determined to be vicious unless the animal is securely confined within the private property of the owner in such a

manner as to prevent the animal from having the opportunity or ability to bite a person or other animal.

7.8 Parked Vehicle. No animal shall be left completely enclosed in a parked, unattended vehicle without adequate ventilation, or in such a way as to subject the animal to temperatures that would adversely affect the animal's health and welfare.

7.9 Waste. No owner shall allow his or her animal or livestock to defecate upon public walks, recreation areas, or lands not belonging to the owner without immediately removing all feces by a sanitary method. The collected feces shall be disposed of only upon property belonging to the owner or in a communal trash site provided by the Tribe.

7.7 Neglect. No owner shall neglect an animal or livestock by failing to provide food, water, shelter, air, medical or hygienic care, exercise, or supervision needed for its health, safety, and welfare.

7.8 Sanitation. No owner may fail to maintain in a clean and sanitary condition, devoid of rodents and vermin, free from objectionable odors, all structures, pens, coops, or yards with any animals or livestock are kept.

7.9 Abandonment. No owner shall abandon any animal or livestock within the exterior boundaries of the Reservation.

7.10 Cruelty to Animals. No person shall purposely or knowingly torture, torment, mutilate, beat, injure, kill, or administer poison to an animal or livestock.

Section 8 – Regulations

For the implementation of this Act, the Tribal Council may adopt necessary and appropriate rules, regulations, policies and procedures as are consistent with this Act and concerning:

- A. A fee structure for licensing, impoundments, and required vaccinations;
- B. Capture, release, and impound of acquired animals under this Chapter;
- C. Any other applicable subject of this Chapter.

Section 9 – Certain Animals Prohibited

It shall be unlawful for any person to possess or maintain within the exterior boundaries of the Reservation all animals, including snakes, reptiles and insects whose bite or venom is poisonous or deadly to humans; any wild animals; and any animal of which the maintenance or possession of is prohibited by applicable federal laws.

Section 10 – Administration and Enforcement

10.1 Enforcement Officer. The Tribal Council shall designate the Tolowa Dee-ni' Nation Code Enforcement Officer for the administration and enforcement of this Act. The designated person or department shall have the authority to:

- A. Investigate complaints of animals at large within the Reservation or that an animal or animal owner violated any provision of this Act;
- B. Enter, as necessary, upon all Reservation land and perform such duties as are necessary and lawful under this Act to enforce the provisions of this Act;
- C. Issue citation for violation of this Act;
- D. With the approval of Tribal Council, contract with animal shelters and/or pounds;
- E. With the approval of Tribal Council, contract with, hire or retain animal control officers to enforce the provisions of this Act;

It is unlawful for any person to resist, hinder, or obstruct the designated department or person in the exercise of his or her duties.

Section 12 – Impoundment

[Reserved]

Section 13 – Citations for Violators of this Ordinance

Citations may be issued to any owner of animals or livestock who violates this Act.

Citations shall:

- A. Specify the nature, location and the date and time of the violation (or the date and time when the violation was discovered) and shall cite the section(s) of this Act that were violated
- B. Specify the amount of the fine which may be paid by the violator to the Tribe to avoid further fines;
- C. Notify the violator that he or she may contest the citation in writing by filing an appeal with the Tolowa Dee-ni' Nation Tribal Court to dispute the finding that a violation has occurred or to request modification of the fine that have been required;
- D. Notify the violator that if she or he does not pay the fine, the Code Enforcement Officer may declare the violator in default, issue further fines, and refer the matter to the Tribal Court.

13.1 Except as provided in Section 13.3, a violation of any provision of this Act is punishable by a fine of not more than twenty-five dollars (\$25) for a first offense.

13.2 Except as provided in Section 13.3, a violation of any provision of this Act is punishable by a fine of not more than fifty dollars (\$50) for a second offense.

13.3 Violation of any provision of this Act that results in serious injury or death to livestock, as defined herein, is punishable by a fine of not more than five hundred dollars (\$500).

13.4 In addition to the fines imposed under this Act, if any animal shall kill or injure any animals, livestock, persons or property, the owner of such animal may be liable for actual damages for injury to the person, property or resources of any person.

Section 14 – Contest of Citations

After a citation is issued, the accused may either pay the fine(s) included in the citation or may contest the citation.

The Tolowa Dee-ni' Nation Tribal Court shall have the jurisdiction to hear all contests of issued citations.

The Tribal Court shall rely exclusively on the facts in the record created by the Code Enforcement Officer in considering a contest to make its decision. The Tribal Court's decision is limited to determining whether or not the Code Enforcement Officer's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

The Tribal Court may modify the payment of a fine by assigning a culturally appropriate alternative means of repayment to the community.

The Tribal Court's decision shall be final and there shall be no further right to appeal to any court or administrative body.

Section 15 - Severability

If any provision of this Act or the application thereof to any person, entity or circumstance is held to be invalid, the remainder of the Chapter shall not be affected.

Section 16 - Effective Date

This Act shall be effective from the date of its approval by the Tribal Council.

Section 17 - Sovereign Immunity

Nothing in this Act shall be construed as a waiver of immunity from suit for any relief and specifically does not waive the sovereign immunity of the Tolowa Dee-ni' Nation, the Tribal Council, or any officer, employee or agent thereof as relates to any subject matter contained in this Act.